

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INTEROCEAN COAL SALES, LDC,

Plaintiff,

v.

EVONIK TRADING GmbH, an alien
corporation, EVONIK DEGUSSA
CORPORATION, an Alabama corporation,
EVONIK INDUSTRIES, AG, an alien
corporation and EVONIK STEAG GmbH, an
alien corporation,

Defendants.

CIVIL ACTION 11cv0940 (NRB)

NOTICE OF MOTION TO DISMISS
PURSUANT TO RULE 12(b)(2),(5) and (6)

Oral Argument Requested

Filed: March 28, 2011
Opposition Due: April 11, 2011
Reply Due: April 18, 2011

TO: ALL COUNSEL OF RECORD

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, the Declaration of Matthias Wegener and Declaration of Patrick J. Hughes, Esq. (with attached exhibits), Defendant Evonik Industries AG, by and through its counsel of record, Connell Foley LLP, respectfully moves this Court pursuant to Rule 12(b)(2), (5) and (6), Fed. R. Civ. P., for an order dismissing all claims against it.

PLEASE TAKE FURTHER NOTICE that Evonik Industries AG requests oral argument on this motion.

DATED: March 28, 2011

Respectfully yours,
CONNELL FOLEY LLP

By: /s/ Patrick J. Hughes

Patrick J. Hughes
A Member of the Bar of This Court
888 Seventh Avenue
New York, NY 10106
phughes@connellfoley.com
Tele: (973) 535-0500
Facsimile: (973) 535-9217
Attorneys for Defendant
Evonik Industries AG

CERTIFICATE OF SERVICE

I certify that on the 28th day of March 2011, I served the foregoing Notice of Motion, Memorandum of Law, Declaration of Matthias Wegener and Declaration of Patrick J. Hughes, Esq. (with attached exhibits), upon all parties by the Court's ECF system, and upon the following counsel by email:

John Dellaportas
Duane Morris, LLP
1540 Broadway
New York, NY 10036-4086
212.692.1000
Email: dellajo@duanemorris.com

Scott C. Helmholz
Bailey & Glasser LLP
One North Old State Capitol Plaza Suite 560
Springfield, IL 62701
217.528.1177
Email: shelmholz@baileygrasser.com

Mark Vasco
Alston & Bird, LLP
Bank of America Plaza
101 South Tryon Street
Suite 4000
Charlotte, NC 28280-4000
704.332.0750
Email: mark.vasco@alston.com

Alexander Seton Lorenzo
Alston & Bird, LLP
90 Park Avenue
New York, NY 10016
212.210.9400
Email: alexander.lorenzo@alston.com

/s/ Patrick J. Hughes
Patrick J. Hughes